BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

STUDENT,

v.

RIVERSIDE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026031036

ORDER GRANTING MOTION TO QUASH SUBPOENA DUCES TECUM ON GERARDO ARENAS

JUNE 8, 2026

On March 20, 2026, Student filed with the Office of Administrative Hearings, called OAH, a request for due process, called a complaint, naming Riverside Unified School District, called Riverside. Student's complaint alleged both expedited and non-expedited issues. An expedited hearing on Student's expedited issue is scheduled to begin on June 9, 2026.

On May 28, 2026, Student issued a subpoena duces tecum on Gerardo Arenas, Riverside's Program Coordinator for Pupil Services. The subpoena sought the following categories of documents to be produced on June 2, 2026:

Category 1: Communications, emails, memoranda, and administrative records regarding educational placement discussions, Arlington Regional placement, referral discussions, transfer discussions, or related placement considerations concerning Student.

Category 2: Communications, records, and administrative discussions regarding disciplinary proceedings, suspension decisions, expulsion recommendations, or related disciplinary discussions concerning Student.

Category 3: Communications, notices, meeting records, memoranda, and documents regarding manifestation determination considerations, disability-related considerations, behavioral support discussions, or related educational programming discussions concerning Student.

Category 4: Communications, records, and administrative discussions regarding reassessment requests, educational supports, special education concerns, behavioral supports, or related educational programming discussions concerning Student.

Category 5: Communications, records, and administrative discussions regarding graduation status, enrollment status, placement status, educational programming, or related placement considerations concerning Student.

On June 3, 2026, Riverside filed a motion to quash the subpoena duces tecum on the grounds that:

- Student failed to make the necessary showing of reasonable necessity,
- Documents sought were internal deliberations or privileged communications,

- Student was seeking impermissible pre-hearing discovery, and
- Emails sought were not educational records.

Student filed an opposition on June 4, 2026, requesting the subpoena duces tecum be modified, and not quashed. Student argues the records are related to expedited and non-expedited issues, and are Student-specific.

A party to a due process hearing under the Individuals with Disabilities Education Act, called IDEA, has the right to present evidence and compel the attendance of witnesses in a hearing conducted pursuant to subsection (f) or (k) of section 1415 of title 20 of the United States Code. (20 U.S.C. § 1415(h); see also Ed. Code, § 56505, subd. (e).)

In special education proceedings in California, the hearing officer has the right to issue subpoenas and subpoenas duces tecum ordering production of documents on a showing of reasonable necessity. (Cal. Code Regs., tit. 5, § 3082, subd. (c)(2).) This requirement mirrors that required by Code of Civil Procedure section 1985, subdivision (b), which requires:

A copy of an affidavit shall be served with a subpoena duces tecum showing good cause for the production of the matters and things described in the subpoena, specifying the exact matters or things desired to be produced, setting forth in full detail the materiality thereof to the issues involved in the case, and stating that the witness has the desired matters or things in his or her possession or under his or her control.

The good cause requirement is met by a factual showing of why the requested documents or things are material and relevant to the litigated issues. (*Johnson v. Superior Court* (1968) 258 Cal. App.2d 829, 835-836; see also *Seven Up Bottling Company v. Superior Court* (1951) Cal. App.2d 71, 77.)

Special education law does not specifically address motions to quash subpoenas or subpoenas duces tecum. In ruling on such motions, OAH relies by analogy on the relevant portions of the Code of Civil Procedure. Code of Civil Procedure section 1987.1 provides that a court may make an order quashing a subpoena entirely, modifying it, or directing compliance with it upon such terms or conditions as the court shall declare, including protective orders.

NO RIGHT TO PREHEARING DISCOVERY

In general, there is no right to prehearing discovery in due process proceedings under the IDEA. (20 U.S.C. § 1400 et seq.) Rather, the IDEA provides parties with the right to present evidence and compel the attendance of witnesses at a due process hearing. (20 U.S.C. § 1415(h).) California provides a similar right to present evidence and compel the attendance of witnesses in due process proceedings (Ed. Code, § 56505, subd. (e)), but does not confer the right to prehearing discovery.

Education Code section 56505, subdivision (a), provides that the state hearing shall be conducted in accordance with regulations adopted by the board, and under that authority the Department of Education promulgated at section 3082, subdivision (c)(2), of title 5 of the California Code of Regulations, which authorizes the issuance of subpoenas and subpoenas duces tecum. These regulations specifically disallow the provisions of the Administrative Procedures Act that provide broader authority for the use of subpoenas in other administrative hearings. (5 Cal. Code Regs., tit. 5, § 3089, [inapplicability of Gov. Code, §§ 11450.05-11450.30 to due process hearing procedures].)

While subpoenas duces tecum are authorized in special education hearings, their use must be consistent with the legislative and regulatory framework of these proceedings. Prehearing discovery in special education cases at the administrative

hearing stage is limited. Parents or adult students are entitled to request copies of the educational records, relating to the student in question, that are maintained by the school district. (Ed. Code, § 56504; *Burnett v. San Mateo Foster City School District* (9th Cir. 2018) 739 Fed. Appx. 870, 873.) The parties are also entitled to disclosures of any evidence an opposing party plans to introduce at hearing five business days prior to the date of the first day of hearing. (Ed. Code, 56505, subd. (e)(7).)

Student's subpoena directs Gerardo Arenas to produce the subpoenaed records to Parent on June 2, 2026, which is one week prior to the expedited hearing date. Student has no statutory right to pre-hearing discovery. Student's subpoena should have been returnable on the first day of hearing. Student's subpoena is unquestionably prehearing discovery as to the non-expedited issues in this case, as that hearing is not scheduled to begin until July 8, 2026. However, as discussed below, the subpoena duces tecum will be quashed in its entirety for failure to show reasonable necessity for the documents requested.

NO REASONABLE NECESSITY FOR THE RECORDS

Riverside argues that the subpoena duces tecum should be quashed because it fails to make the requisite showing of reasonable necessity for the requested documents with a statement of facts showing the material and relevant information sought.

Student's declaration in support of the subpoena duces tecum makes broad statements about the need for documents for "proper presentation of this case," followed by a long list of issues with no specificity beyond the insertion of Student's name. The entire declaration appears to be a template that could apply to any due process hearing.

In a belated attempt to make a necessity showing, Student explains he is seeking records showing "what Riverside knew, when it knew it, what actions it took or did not take, and whether it assessed or convened an IEP team meeting before changing Student's placement through discipline" and specific to Student. Again, Student's explanations are a template that would apply to any due process hearing, with a general reference to the expedited due process issue.

Student is going to hearing on one narrow expedited issue, that is, whether Riverside should have completed assessments or convened an IEP team meeting to address Student's conduct for which he was disciplined prior to initiating a disciplinary change of placement. Student makes no showing of why he cannot meet his burden of proof with documents in his educational records. Student does not explain how such broad categories of documents as unspecified "communications, notices, memoranda, and administrative discussions" regarding "transfer discussions," "expulsion recommendations," or "disability-related discussions" are relevant or material to presentation of Student's expedited case. Simply putting Student's name at the end of a long generic list of documents, or a broad statement that all the documents are about his case, is insufficient to establish those documents are reasonably necessary for Student to prosecute this expedited proceeding.

It is not the responsibility of the judiciary "to sift through scattered papers in order to manufacture arguments for the parties." (*Agarwal v. Oregon Mutual Insurance Company* (D. Nev. January 18, 2013, No. 2:11–cv–01384–LDG) 2013 WL 211093, at *3.) The undersigned ALJ ordered on the record at the prehearing conference on May 29, 2026, that Riverside ensure Student received a complete copy of his educational records. If Student contends that any specific document that should have been in his educational

records was not produced, Student may raise that concern with the ALJ at the expedited hearing.

PRIVILEGED COMMUNICATIONS AND INTERNAL DELIBERATIONS

Riverside objects to the Arenas subpoena on the grounds that the record categories seek internal staff deliberations, draft analyses and recommendations, and attorney-client communications. Riverside contends these materials are covered by attorney-client privilege, protections against disclosure of internal deliberative processes, and confidential educational and personnel protections (Evid. Code, § 954; Gov. Code, § 7922.000.) In his opposition, Student says he is not requesting production of privileged or confidential documents.

As discussed above, Student failed to demonstrate reasonable necessity for the documents sought. Although Riverside could arguably produce a privilege log for documents it possesses but declines to produce due to various privileges, the failure to demonstrate reasonable necessity objection has been sustained and Riverside's privileged communications and internal deliberations objections need not be decided at this time.

EMAILS ARE NOT EDUCATIONAL RECORDS

Riverside argues that emails are not educational records that need to be maintained pursuant to title 34 Code of Federal Regulations section 9, citing a federal District Court case that is not binding precedent on OAH. In addition, OAH may order that documents in an individual's or agency's possession be produced in addition to educational records. The federal definition of educational records does not in any way limit the category of documents that may be sought by a party by subpoena duces tecum in due process proceedings. This grounds for objection is overruled, although it

does not require production because Student failed to demonstrate reasonable necessity for the documents sought.

The undersigned ALJ has the authority to, and may, order Riverside to produce material documents during the hearing upon an adequate showing of necessity and materiality by Student.

Accordingly, Riverside's motion to quash Student's subpoena to Gerardo Arenas, Riverside's Program Coordinator for Pupil Services, in its entirety is granted.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings